

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
GARDEN CITY BOXING CLUB, INC.,

Plaintiff,

-against-

EXTASIS CORP., et al.,

Defendants.  
-----X

MEMORANDUM & ORDER

07-CV-3853 (NGG) (CLP)

NICHOLAS G. GARAUFIS, U.S. District Judge.

Plaintiff Garden City Boxing Club, Inc. (“Garden City”) brings this action against defendants Extasis Corp., d/b/a Extasis Cocktail Lounge and Norma R. Mancia (collectively, “Defendants”), alleging that Defendants engaged in the theft of a closed-circuit broadcast of the September 18, 2004 boxing match between Oscar De La Hoya and Bernard Hopkins, in violation of 47 U.S.C. §§ 553 and 605. On February 19, 2008, upon Defendants’ failure to respond to the Complaint and Plaintiff’s motion for default judgment, the Clerk of Court entered default against Defendants. (Docket Entry # 7.) On February 27, 2008, the court entered default judgment against Defendants and referred Plaintiff’s motion for statutory and enhanced damages and litigation expenses to Magistrate Judge Cheryl Pollak to conduct an inquest and issue a report and recommendation. Judge Pollak issued a report and recommendation (“R&R”) on July 9, 2008 in which she recommended that Plaintiff be awarded \$1,000 in statutory damages, \$10,000 in enhanced damages, and \$1,170 in attorney’s fees and costs. (Docket Entry # 16.) The R&R stated that any objections to the R&R “must be filed with the Clerk of Court . . . within ten (10) days of receipt of this Report. Failure to file objections within the specified time frame waives the right to appeal the District Court’s order.” (R&R at 17.)

In reviewing a report and recommendation, this court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). In order to accept a report and recommendation where no timely objection has been made, the “court need only satisfy itself that there is no clear error on the face of the record.” Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)); see also Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991) (court may accept report if it is “not facially erroneous”). Defendants have filed no objection to the R & R.

The court has reviewed the R & R and is satisfied that there is no clear error on the face of the record. It is therefore ORDERED that Defendants shall pay to Plaintiff \$1,000 in statutory damages, \$10,000 in enhanced damages, and \$1,170 in attorney’s fees and costs. It is further ORDERED that Defendant Norma R. Mancina shall be held jointly and severally liable with Defendant Extasis Corp. for this damages award.

The Clerk of Court is directed to close the case. The court notes that by their failure to object to the R&R, the parties have waived judicial review of this Order. See Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002).

SO ORDERED.

Dated: August 1, 2008  
Brooklyn, N.Y.

/s Nicholas G. Garaufis  
NICHOLAS G. GARAUFIS  
United States District Judge